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From: Casper, Anne S
Sent: Wednesday, January 16, 2008 3:05 PM
To: Brown, Cynthia A; Turner, Michael R
Subject: RE: Thailand, interrogation, CIA
I think - "we don't comment on intel issues" is pretty standard and fine. Sound ok to you two?

Anne S. Casper
Counselor for Public Affairs
U.S. Embassy Bangkok
tel: 66-2-205-4486
casperas@state.gov
Website: <http://bangkok.usembassy.gov>

From: Brown, Cynthia A
Sent: Wednesday, January 16, 2008 3:03 PM
To: Turner, Michael R; Casper, Anne S
Subject: RE: Thailand, interrogation, CIA

I agree that we should look at another, softer way of saying it. As I learned in IO Training 101. Lesson #2 after "Don't Lie." "Don't use the phrase, 'No Comment.'"

From: Turner, Michael R
Sent: Wednesday, January 16, 2008 3:00 PM
To: Casper, Anne S; Brown, Cynthia A
Subject: Thailand, interrogation, CIA

The DCM called me just now to alert me to this story below, and reminded me that our response should be "no comment."

I think there's another way of saying that without exactly saying that. Something like: "We do not usually comment on intelligence matters." Can either of you think of something better but says essentially the same thing?

mrt

Station Chief Made Appeal To Destroy CIA Tapes

Lawyer Says Top Official Had Implicit Approval

By Joby Warrick and Walter Pincus

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Washington Post Staff Writers and Washington Post Staff Writers
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In late 2005, the retiring CIA station chief in Bangkok sent a classified cable to his superiors in Langley asking if he could destroy videotapes recorded at a secret CIA prison in Thailand that in part portrayed intelligence officers using simulated drowning to extract information from suspected al-Qaeda members.

The tapes had been sitting in the station chief's safe, in the U.S. Embassy compound, for nearly three years. Although those involved in the interrogations had pushed for the tapes' destruction in those years and a secret debate about it had twice reached the White House, CIA officials had not acted on those requests. This time was different.

The CIA had a new director and an acting general counsel, neither of whom sought to block the destruction of the tapes, according to agency officials. The station chief was insistent because he was retiring and wanted to resolve the matter before he left, the officials said. And in November 2005, a published report that detailed a secret CIA prison system provoked an international outcry.

Those three circumstances pushed the CIA's then-director of clandestine operations, Jose A. Rodriguez Jr., to act against the earlier advice of at least five senior CIA and White House officials, who had counseled the agency since 2003 that the tapes should be preserved. Rodriguez consulted CIA lawyers and officials, who told him that he had the legal right to order the destruction. In his view, he received their implicit support to do so, according to his attorney, Robert S. Bennett.

In a classified response to the station chief, Rodriguez ordered the tapes' destruction, CIA officials say. The Justice Department and the House intelligence committee are now investigating whether that deed constituted a violation of law or an obstruction of justice. John A. Rizzo, the CIA's acting general counsel, is scheduled to discuss the matter in a closed House intelligence committee hearing scheduled for today.

According to interviews with more than two dozen current and former U.S. officials familiar with the debate, the taping was conducted from August to December 2002 to demonstrate that interrogators were following the detailed rules set by lawyers and medical experts in Washington, and were not causing a detainee's death.

The principal motive for the tapes' destruction was the clandestine operations division's worry that the tapes' fate could be snatched out of their hands, the officials said. They feared that the agency could be publicly shamed and that those involved in waterboarding and other extreme interrogation techniques would be hauled before a grand jury or a congressional inquiry -- a circumstance now partly unfolding anyway.

"The professionals said that we must destroy the tapes because they didn't want to see the pictures all over television, and they knew they eventually would leak," said a former agency official who took part in the discussions before the tapes were pulverized. The presence of the tapes in Bangkok and the CIA's communications with the station chief there were described by current and former officials.

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Congressional investigators have turned up no evidence that anyone in the Bush administration openly advocated the tapes' destruction, according to officials familiar with a set of classified documents forwarded to Capitol Hill. "It was an agency decision -- you can take it to the bank," CIA Director Michael V. Hayden said in an interview on Friday. "Other speculations that it may have been made in other compounds, in other parts of the capital region, are simply wrong."

Many of those involved recalled conversations in which senior CIA and White House officials advised against destroying the tapes, but without expressly prohibiting it, leaving an odd vacuum of specific instructions on a such a politically sensitive matter. They said that Rodriguez then interpreted this silence -- the absence of a decision to order the tapes' preservation -- as a tacit approval of their destruction.

"Jose could not get any specific direction out of his leadership" in 2005, one senior official said. Word of the resulting destruction, one former official said, was greeted by widespread relief among clandestine officers, and Rodriguez was neither penalized nor reprimanded, publicly or privately, by then-CIA Director Porter J. Goss, according to two officials briefed on exchanges between the two men.

"Frankly, there were more important issues that needed to be focused on, such as trying to preserve a critical [interrogation] program and salvage relationships that had been damaged because of the leaks" about the existence of the secret prisons, said a former agency official familiar with Goss's position at the time.

Rodriguez, whom the CIA honored with a medal in August for "Extraordinary Fidelity and Essential Service," declined requests for an interview. But his attorney said he acted in the belief that he was carrying out the agency's stated intention for nearly three years. "Since 2002, the CIA wanted to destroy the tapes to protect the identity and lives of its officers and for other counterintelligence reasons," Bennett said in a written response to questions from The Washington Post.

"In 2003 the leadership of intelligence committees were told about the CIA's intent to destroy the tapes. In 2005, CIA lawyers again advised the National Clandestine Service that they had the authority to destroy the tapes and it was legal to do so. It is unfortunate," Bennett continued, "that under the pressure of a Congressional and criminal investigation, history is now being revised, and some people are running for cover."

Recorded on the tapes was the coercive questioning of two senior al-Qaeda suspects: Zayn al-Abidin Muhammed Hussein, known as Abu Zubaida, and Abd al-Rahim al-Nashiri, who were captured by U.S. forces in 2002. They show Zubaida undergoing waterboarding, which involved strapping him to a board and pouring water over his nose and mouth, creating the sensation of imminent drowning. Nashiri later also underwent the same treatment.

Some CIA officials say the agency's use of waterboarding helped extract information that led to the capture of other key al-Qaeda members and prevented attacks. But others, including former CIA, FBI and military officials, say the practice constitutes torture.

The destruction of the tapes was not the first occasion in which Rodriguez got in trouble for taking a provocative action to help a colleague. While serving as the CIA's Latin America division chief in 1996, he appealed to local Dominican Republic authorities to prevent a

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childhood friend, and CIA contractor, who had been arrested in a drug investigation, from being beaten up, according to a former CIA official familiar with the episode.

Such an intervention was forbidden by CIA rules, and so Rodriguez was stripped of his management post and reprimanded in an inspector general's report. But shortly after the reprimand, he was named station chief in Mexico City and, after the Sept. 11, 2001, terrorist attacks, was promoted to deputy director of the fast-expanding counterterrorism center. He served under the center's director then, J. Cofer Black, who had been his subordinate in the Latin America division.

When Black -- who played a key role in setting up the secret prisons and instituting the interrogation policy -- left the CIA in December 2002, Rodriguez took his place. Colleagues recall that even in the deputy's slot, Rodriguez was aware of the videotaping of Zubaida, and that he later told several it was necessary so that experts, such as psychologists not present during interrogations, could view Zubaida's physical reactions to questions.

By December 2002, the taping was no longer needed, according to three former intelligence officials. "Zubaida's health was better, and he was providing information that we could check out," one said.

An internal probe of the interrogations by the CIA's inspector general began in early 2003 for reasons that have not been disclosed. In February of that year, then-CIA General Counsel Scott W. Muller told lawmakers that the agency planned to destroy the tapes after the completion of the investigation. That year, all waterboarding was halted; and at an undisclosed time, several of the inspector general's deputies traveled to Bangkok to view the tapes, officials said.

In May 2004, CIA operatives became concerned when a Washington Post article disclosed that the CIA had conducted its interrogations under a new, looser Bush administration definition of what legally constituted torture, several former CIA officials said. The disclosure sparked an internal Justice Department review of that definition and led to a suspension of the CIA's harsh interrogation program.

The tapes were discussed with White House lawyers twice, according to a senior U.S. official. The first occasion was a meeting convened by Muller and senior lawyers of the White House and the Justice Department specifically to discuss their fate. The other discussion was described by one participant as "fleeting," when the existence of the tapes came up during a spring 2004 meeting to discuss the Abu Ghraib prison abuse scandal, the official said.

Those known to have counseled against the tapes' destruction include John B. Bellinger III, while serving as the National Security Council's top legal adviser; Harriet E. Miers, while serving as the top White House counsel; George J. Tenet, while serving as CIA director; Muller, while serving as the CIA's general counsel; and John D. Negroponte, while serving as director of national intelligence.

Hayden, in an interview, said the advice expressed by administration lawyers was consistent. "To the degree this was discussed outside the agency, everyone counseled caution," he said. But he said that, in 2005, it was "the agency's view that there were no legal impediments" to the tapes' destruction. There also was "genuine concern about agency people being identified," were the tapes ever to be made public.

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Hayden, who became CIA director last year, acknowledged that the questions raised about the tapes' destruction, then and now, are legitimate. "One can ask if it was a good idea, or if there was a better way to do it," he said. "We are very happy to let the facts take us where they will."

Staff researcher Julie Tate contributed to this report.

*Michael R. Turner
Press Attaché
U.S. Embassy Bangkok
tel. 02-205-4232
fax. 02650-8919
e-mail: TurnerMR@state.gov*

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